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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/756,508 01/08/01 NEWDELMAN

M INFIX00-01

QM32/0601

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EXAMINER

JONES, S

ART UNIT

PAPER NUMBER

3713

DATE MAILED:

06/01/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**

Application No.

09/756,508

Applicant(s)

NEWDELMAN, MITCHELL J.

Examiner

Scott E. Jones

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### ***Specification***

2. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;

(4) if a mixture, its ingredients;

(5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

3. The disclosure is objected to because of the following informalities: The outcome card is referred to as item 30 on page 10, line 21, but is referred to earlier in the specification and in figure 1 as item 20. Correction is required.

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 21 recites the limitation "...the player..." in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claims 22-25 inherit the deficiencies of claim 18 by dependency.

7. Claim 22 recites the limitation "...the game cards for replacement..." in line 2. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 17 recites the limitation "...the game indicia for replacement..." in line 2. There is insufficient antecedent basis for this limitation in the claim.

The items noted hereinabove are three examples of deficiencies pertaining to the claims. Applicant should review the entire application, including the claims, to ensure clarity. Correction is required.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-3, 6-7, 9, 12-13, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Richardson. Richardson (U.S. Patent # 5,813,673) discloses a card game adapted to private and casino gambling and wagering, column 1, lines 1-3 (claims 1, 9, 13, and 28-29). Richardson discloses a player being allowed to place sequential bets as each round of cards is dealt to the players, abstract, lines 7-9 (claims 1, 9, 13, and 28-29). Richardson also discloses a card game using a standard fifty two card deck of four suits being played by dealing a plurality of cards to each player, abstract, lines 1-2 (claims 1, 9, 13, and 28-29). Richardson discloses an "E" card is dealt single face up to the dealer. The object of the game is for the players to have at least one card which is of a higher (or lower, as decided by each player before any cards are dealt) rank than the "E" card and of the same suit, abstract, lines 3-7, column 2, line 67, and column 3, lines 1-6 (claims 1-3, 6-7, 9, 12-13, and 28). Inherently, a player can be dealt and play with more than one hand for each game.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, 8, 10-11, 14-27, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson in view of Weiss. Richardson (U.S. Patent # 5,813,673) discloses a card game adapted to private and casino gambling and wagering, column 1, lines 1-3 (claims 1, 9, 13, 16, 21, 26, and 27-29). Richardson discloses a player being allowed to place sequential bets as each round of cards is dealt to the players, abstract, lines 7-9 (claims 1, 9, 13, 16, 21, 26, and 27-29). Richardson also discloses a card game using a standard fifty two card deck of four suits being played by dealing a plurality of cards to each player, abstract, lines 1-2 (claims 1, 9, 13, 16, 21, 26, and 27-29). Richardson discloses an "E" card is dealt single face up to the dealer. The object of the game is for the players to have at least one card which is of a higher (or lower, as decided by each player before any cards are dealt) rank than the "E" card and of the same suit, abstract, lines 3-7, column 2, line 67, and column 3, lines 1-6 (claims 1-3, 6-7, 9, 12-13, 16, 21, 26-29). The patent to Richardson meets all of the applicant's claimed subject matter with the exception of a player discarding and replacing at least one indicia or card (claims 4-5, 8, 10-11, 14-15, 17-18, 22-23, 26-27, and 29). The patent to Richardson also lacks an electronic video display device displaying game/outcome cards or indicia and computer hardware and software corresponding to indicia or cards used for playing a casino game (claims 16, 20 and 21). Richardson lacks an electronic means for a player to enter a wager, start a game, select a replacement card or indicia and reward a player for a winning hand (claims 16-23). The patent to Weiss (U.S. Patent # 5,947,822) teaches of a player being allowed to improve an initial hand by replacing certain cards with others, abstract, lines 16-18 (claims 4-5, 8, 10-11, 14-15, 17-18, 22-23, 26-27, and 29). Weiss shows a video display in figure 2, item 2 (claims 13 and 18). Weiss also teaches of a computer based device including software corresponding to cards or indicia in

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the abstract (claims 16 and 21). Weiss teaches of a means for a player to start a game and enter a wager, claim 11, line 3 and in the abstract, lines 1-2 (claims 16 and 21). Weiss also teaches of a means to reward a player for a winning hand, claim 11, lines 32-33 (claims 16 and 21). Weiss teaches of a player or game selecting replacement cards or indicia and displaying these replacements along with the dealer's "outcome card" on the video display, abstract, lines 4-5, and 16-18 (claims 17-18, and 22-24). It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to simulate the card game of Richardson in the electronic gaming machine of Weiss in order for a player to switch between the applicant's game and other games like blackjack and draw poker by utilizing the device's touch screen without having to get up and walk to other machines to play a different game.

### *Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Suan '157, De Lisle '119, Villano '517, Caramazza '597, Kaufaman '403, Boylan et al. '875, Lombardo et al. '827, Boylan et al. '041, English '310, and Moore, Jr. disclose various card games.
- Dickinson '397, Sines et al. '069, Fuchs '753, Sanduski et al. '040, and Wilms '424 disclose electronic card gaming machines.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Friday, 8:30 A.M. - 5:30 P.M..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703) 308-1118. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1118.

Scott E. Jones  
Examiner  
Art Unit 3713

SEJ  
sej  
May 29, 2001



**MICHAEL O'NEILL**  
**PRIMARY EXAMINER**